

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Barrow Industries Inc.,  
Plaintiff

v.

Civil Action No. \_\_\_\_\_

J. C. Penney Company, Inc.  
and  
Koltov, Inc.  
Defendants

MAGISTRATE JUDGE BBC

COMPLAINT

RECEIPT # 64144  
AMOUNT \$ 250  
SUMMONS ISSUED yes  
LOCAL RULE 4.1  
WAIVER FORM  
MCF ISSUED  
BY DPTY. CLK. fmw  
DATE 5/10/05

Plaintiff, as its complaint, alleges the following:

1. Plaintiff, Barrow Industries Inc., is a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, and has its principal place of business at 3 Edgewater Drive, Norwood, Massachusetts 02062.

2. On information and belief, defendant, J. C. Penney Company, Inc., is a corporation organized and existing under the laws of the State of Delaware, and has its principal place of business at 6501 Legacy Drive, Plano, Texas 75024-3698 (and a mailing address of P.O. Box 10001, Dallas, Texas 75301-1115).

3. On information and belief, defendant, Koltov, Inc., is a corporation organized and existing under the laws of the State of California, and has its principal place of business at 31250 Cedar Valley Drive, Westlake Village, CA 91362.

4. This court has jurisdiction of the subject matter of this claim under the provisions of Title 28, United States Code §1338(a), because this action arises under an Act of Congress relating to Copyrights, the Copyright Act of 1976, Pub. L. 94-553, 90 Stat. 2598, Title 17, United States Code §§101 et seq.

5. This Court has jurisdiction over both defendants because defendants have transacted business in Massachusetts; defendants have contracted to supply fabric materials in Massachusetts; defendants have caused tortious injury to plaintiff by advertising, selling and delivering fabric materials in Massachusetts; defendants have caused tortious injury in Massachusetts to plaintiff by advertising, selling and delivering fabric materials outside of Massachusetts while defendants regularly do or solicit business in Massachusetts and/or engage in other persistent courses of conduct in Massachusetts, and/or derive substantial revenue from fabric materials sold in Massachusetts; and this action arises from these activities.

6. Plaintiff is a marketer of fabric materials. In 2002, an employee of Art College created an original fabric design, entitled "M 6264" (hereafter called Plaintiff's Design). Plaintiff obtained ownership of the copyright in Plaintiff's Design by a written assignment from Art College.

7. Plaintiff's Design contains considerable material wholly original with plaintiff and is copyrightable subject matter under the Copyright Act of 1976.

8. Plaintiff first published (i.e. marketed) fabric incorporating Plaintiff's Design on January 1, 2003. A photocopy of a sample of Plaintiff's Design is attached hereto as Exhibit A.

9. Plaintiff's Design was made the subject of an application which matured into United States Copyright Registration Certificate No. VA 1-183-316, issued by the Register of Copyrights on April 4, 2003, a copy of which is attached hereto as Exhibit B.

10. Since at least as early as January 1, 2003, plaintiff has been and still is the sole proprietor of all right, title and

interest in and to the copyright of Plaintiff's Design. Since at least as early as January 1, 2003, plaintiff has been and still is the sole owner of all right, title and interest in and to the copyright registration of Plaintiff's Design.

11. Plaintiff has complied with all statutory requirements in securing federal statutory copyright for Plaintiff's Design under the Copyright Act of 1976.

12. After January, 1, 2003, defendants, with full actual knowledge of, and with full access to, the copyrighted Plaintiff's Design, willfully infringed plaintiff's copyright in Plaintiff's Design by copying Plaintiff's Design and by marketing defendants' handbags made of fabric materials incorporating Plaintiff's Design (hereinafter called Defendants' Copied Fabric Materials). Defendants' copying was without the consent of plaintiff. Defendants' Copied Fabric Materials bear a fabric design which is virtually identical to plaintiff's fabric materials incorporating Plaintiff's Design. Copies of various materials showing Defendants' Copied Fabric Materials are attached hereto as Exhibit C.

13. Plaintiff has notified defendants that defendants have infringed plaintiff's copyright, but defendants have refused to cease infringing and have continued to willfully infringe plaintiff's copyright.

14. Defendants' wrongful activities constitute a violation of the United States Copyright Act.

WHEREFORE, PLAINTIFF PRAYS:

1. That defendants be held to have violated Title 17, United States Code §101 et seq. by reason of defendants' willful copyright infringement.

2. That defendants be enjoined during the pendency of this action and permanently from infringing said copyright of said plaintiff in any manner, and from purchasing, importing, making, having made, selling, marketing, shipping or advertising Defendants' Copied Fabric Materials or any materials bearing Plaintiff's Design.

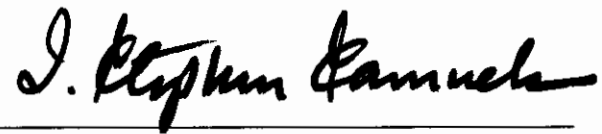
3. That defendants, at the election of plaintiff, said election to be made at any time before entry of final judgment, as authorized by Title 17, United States Code §504, be required to pay damages to plaintiff of either:

- a. such actual damage as plaintiff has sustained as a consequence of defendants' infringement of plaintiff's copyright, together with any profits of defendants that are attributable to said infringement and are not taken into account in computing said actual damages; or
- b. statutory damages in the sum of \$100,000 for defendants' willful infringement of plaintiff's copyright.

4. That defendants be required to deliver up for destruction all of Defendants' Copied Fabric Materials and all other materials which infringe upon plaintiff's copyright, as well as all articles by means of which such infringements were or could be made.

5. That defendants be required to pay to plaintiff the full costs of this action, including a reasonable attorney's fee, as authorized by Title 17, United States Code §505.

6. That plaintiff be awarded such other and further relief as the Court deems just or equitable in the circumstances.

A handwritten signature in black ink, reading "I. Stephen Samuels", is written over a horizontal line.

I. Stephen Samuels  
B.B.O. No. 440200  
Samuels & Hiebert LLC  
Two International Place  
23rd Floor  
Boston, MA 02110  
Tel: 617-426-9181 Ext. 107  
Fax: 617-426-9182  
Email: ISS@SamuelsTM.com  
Attorney for Plaintiff

1359.05G

**BARROW INDUSTRIES - FABRIC DESIGN**

ID: M6264  
TYPE: TAPESTRY  
DESC: COCONUT GROVE  
PO#: 34156  
SRC: ART COTTAGE  
INV#: 70053  
DATE: 8/29/2002  
DESIGNER: KIM  
DISK#: NOTES  
REV:  
SENT: 8/30/2002

CATEGORY: 410 LEAVES  
CUT: B3 CUT CODE B3  
QUALITY: 062 6 END FULL COUNT

WEIGHT: 1.313 REPEAT: 13-1/2" R/R: YES  
WIDTH: 54 REPEATV: 27" NON-DIR: NO  
PICKS: UP ROLL: NO  
BACKED?: YES

FINISH: SN N.PUNCH/SBR  
CLEAN: S SOLVENT CLEANERS ONLY  
DUTY: 23 2.7  
MKT GROUP# 8-T-0

**FIBER CONTENT:**

53 % COTTON  
47 % POLYESTER



**DESIGN NOTES:**

FC 6 END TAPESTRY (STRAIGHT YARN  
FILLED) (8640 ENDS) W/ 7/1 COTTON  
DISK# 3474 (BEIGE)  
DISK# 3475 (BROWN/BLACK)  
\*DISK# 3474 3575 & S.O. SENT 8/30/02  
\*PO# 34156 (OASIS & JUNGLE) SENT 10/3/02  
\*ARTWORK DESIGN# TROPICAL 003B

**DES GROUP#:**

COLOR	MILL DESCRIPTION	WARP	WARP DESCRIPTION	DISK #	DATE SENT	COLOR CODE	DESCRIPTION
JUNG JUNGLE	6264 JUNG DT3386-3	WP-0744	FESTIVAL	3475	8/30/2002	000	UNKNOWN
OASI OASIS	6264 OASI DT3387-2	WP-0744	FESTIVAL	3474	8/30/2002	003	BEIGE-BROWN



## CERTIFICATE OF REGISTRATION



OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
REGISTER OF COPYRIGHTS  
United States of America

JRM VA

For a Work of the Visual Arts  
UNITED STATES COPYRIGHT OFFICE

REG

VA 1-183-316



\*H0001183316\*

EFFECTIVE DATE OF REGISTRATION

APR 4 2003  
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

M 6264

NATURE OF THIS WORK ▼ See instructions  
Design specimen on CD-Rom  
Artwork

PREVIOUS OR ALTERNATIVE TITLES ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼

Art Cottage

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a  
"work made for hire?"

☒ Yes  
☐ No

Author's Nationality or Domicile  
Name of Country

OR { Citizen of ☐   
Domiciled in ☒ England

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No If the answer to either of these questions is "Yes," see detailed instructions.  
Pseudonym? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☒ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a  
"work made for hire?"

☐ Yes  
☐ No

Author's Nationality or Domicile  
Name of Country

OR { Citizen of ☐   
Domiciled in ☐

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No If the answer to either of these questions is "Yes," see detailed instructions.  
Pseudonym? ☐ Yes ☐ No

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Year in Which Creation of This Work Was  
Completed

2002

This information  
must be given  
in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information  
ONLY if this work  
has been published.

Month ▶ January Day ▶ 1 Year ▶ 2003

U.S.A.

Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Barrow Industries Inc. dba  
Merrimac Textile Co.  
3 Edgewater Drive, Brookside Pk.  
Norwood, Massachusetts 02062

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

By written assignment

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.  
• See detailed instructions. • Sign the form at line 8.

APPLICATION RECEIVED

APR 04 2003

ONE DEPOSIT RECEIVED

APR 04 2003

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

DO NOT WRITE HERE

Page 1 of 2 pages

B

EXAMINED BY *gruc*

FORM VA

CHECKED BY *my*☐ CORRESPONDENCE  
YesFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY**DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.****PREVIOUS REGISTRATION** Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

**DERIVATIVE WORK OR COMPILATION** Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.a. **Preexisting Material** Identify any preexisting work or works that this work is based on or incorporates. ▼b. **Material Added to This Work** Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼**DEPOSIT ACCOUNT** If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

Samuels, Gauthier &amp; Stevens LLP

DA063789

**CORRESPONDENCE** Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼Naomi W. Norcott  
Samuels, Gauthier & Stevens LLP  
225 Franklin Street, Suite 3300  
Boston, MA 02110

Area code and daytime telephone number ▶ ( ) (617) 426-9180

Fax number ▶ ( )

Email ▶

**CERTIFICATION\*** I, the undersigned, hereby certify that I am the

check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent ofBarrow Industries Inc.  
dba Merrimac Textile Co.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

**Typed or printed name and date** ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Naomi W. Norcott

Date ▶ March 31, 2003

**Handwritten signature (X)** ▼  
XCertificate  
will be  
mailed in  
window  
envelope  
to this  
address:

Name ▼	Naomi W. Norcott Samuels, Gauthier & Stevens LLP
Number/Street/Apt ▼	225 Franklin Street, Suite 3300
City/State/ZIP ▼	Boston, Massachusetts 02110

**YOU MUST:**

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL ELEMENTS  
IN THE SAME PACKAGE.

1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material

As of July 1, 1999,  
the filing fee for  
Form VA is \$30.**MAIL TO:**Library of Congress  
Copyright Office  
101 Independence Avenue, S.E.  
Washington, D.C. 20559-6000

\*17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

June 1999—100,000  
WEB REV: June 1999

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103/3502/020101 SH TROPICAL TOTE  
 UPC # 054069001850

	QTY 1	35.00
SALE DISC	10.50 -	
TOTAL DISCOUNTS	10.50 -	
DISCOUNTED PRICE		24.50
NET SALES/RETURN VALUE		24.50T

103/3502/010201 SH TROPICAL TOTE  
 UPC # 054069001843

	QTY 1	35.00
SALE DISC	10.50 -	
TOTAL DISCOUNTS	10.50 -	
DISCOUNTED PRICE		24.50
NET SALES/RETURN VALUE		24.50T

07221000	CATALOG BOOK	
	QTY 1	5.00T
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 VISA 56.70

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103/3503/020001 SH TROP CLUTCH  
UPC # 054069001898

QTY 1 30.00

SALE DISC 9.00 -

TOTAL DISCOUNTS 9.00 -

DISCOUNTED PRICE 21.00

NET SALES/RETURN VALUE 21.00

SUBTOTAL 21.00

SALES TAX 5.000% 02760 1.05

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TTL 02/22/05 22.05

YOUR TOTAL SAVINGS TODAY 9.00 -

CARDHOLDER ACKNOWLEDGES RECEIPT OF  
GOODS/SERVICES IN THE AMOUNT SHOWN AND  
AGREES TO PAY FOR THEM ACCORDING TO  
CREDIT CONTRACT WITH CARD ISSUER.

Please visit our website at  
[www.jcpenney.com](http://www.jcpenney.com)
















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**Sag Harbor Tropical Tapestry Mini Valentine Tote (SKU-76150) (CT11-50632)**



MSRP: \$32.00  
 Our price: \$24.99  
 Sale: \$19.99 (38% off)



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**Please select a color**

1. Tropical Tapestry-Khaki

**add to cart**



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 When will it get to me?

**Customer Rating**  
 This product has no customers.

Be the first person to review this product.

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**Product Features**

<b>Size:</b>	7.5" x 10" x 3.25"
<b>Linear inches:</b>	20.75"
<b>Weight:</b>	1 lb
<b>Warranty:</b>	30 days against manufacturer's defects

- + 18" zip around entry to main compartment
- + Rolled shoulder straps measure 24" long with an 11" drop from the top of the straps to the top of the bag
- + Two open compartments separated by a center zip main compartment
- + Polished silver hardware
- + Two interior drop pockets
- + PVC handles, trim, and bottom
- + Eight interior credit card slots and two pen sleeves

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**Sag Harbor**  
Tropical Tapestry Valentine Tote  
**Sale: \$29.99**



**Sag Harbor**  
Tropical Tapestry Frame Satchel  
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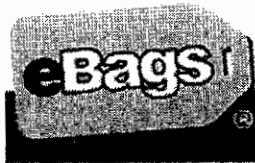


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**Sag Harbor Tropical Tapestry East/West Tote (SKU-90210) (CT11-50633)**



**MSRP: \$38.00**  
**Our price: \$29.99**  
**Sale: \$24.99** (34% off)

**This item SHIPS FREE!**  
 High volume orders



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**Please select a color**

**1. Tropical Tapestry-Black**

**add to cart**

Usually leaves warehouse within 2 business days.  
 When will it get to me?

**Customer Rating**  
 This product has n customers.

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**Product Features**

**Fabric:** Cotton and polyester with PVC trim

**Size:** 9" x 14" x 4.5"

**Linear inches:** 27.5"

**Weight:** 1 lb , 8 oz

**Warranty:** 30 days against manufacturer's defects

- + 12.5" top zip entry to main compartment
- + Double handles measure 24" long and have a drop of 10"
- + Fully fabric lined
- + Polished silver Sag Harbor tag attached to the bag
- + Two interior drop pockets
- + Leather-like PVC handles, trim and bottom
- + Interior cell phone drop pocket
- + Includes a detachable key fob
- + Two pen sleeves
- + Center divider is secured with a zipper
- + 9" interior zip pocket

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**Sag Harbor Tropical Tapestry Valentine Tote** (SKU-94000) (CT11-50635)



MSRP: \$42.00  
Our price: \$34.99  
Sale: \$29.99 (29% off)

**This item SHIPS FREE!**  
High volume orders



**Customer Rating**  
This product has n customers.

Be the first person this product.

**Click to see photos of every color**



**Please select a color**

1. Tropical Tapestry-Black

**add to cart**



Usually leaves warehouse within 2 business days.  
When will it get to me?

- [Add to comparison chart](#)
- [View comparison chart](#)

- [See Entire Brand](#)
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## Product Features

**Fabric:** Cotton and polyester with PVC trim

**Size:** 10.75" x 15" x 5"

**Linear inches:** 30.75"

**Weight:** 1 lb , 8 oz

**Warranty:** 30 days against manufacturer's defects

- + Two open compartments separated by a 29" zip-around main compartment
- + Rolled tote handles measure 28" long and have a drop of 11.5" from the top of the straps to the top of the bag
- + Interior cell phone / eyeglass drop pocket
- + Polished silver hardware
- + 8 credit card slots
- + PVC handles, trim and flat bottom
- + ID window
- + Removable key fob
- + Two pen sleeves
- + Interior 7" zip security pocket
- + Two 4.5" drop pockets for small items

## You May Also Be Interested In





**Sag Harbor**  
Tropical Tapestry East/West Tote  
**Sale: \$24.99**



**Sag Harbor**  
Amaretto Valentine Tote  
**Sale: \$29.99**



**Sag Harbor**  
Tropical Tapestry Frame Satchel  
**Sale: \$24.99**



**Sag Harbor**  
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**Sale: \$29.99**

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**Winter Clearance Sale: Free shipping on orders of \$25 or more!**

**Sag Harbor Tropical Tapestry Frame Satchel (SKU-98270) (CT11-50634)**



MSRP: \$38.00  
Our price: \$29.99  
Sale: \$24.99 (34% off)



**This item SHIPS FREE!**  
High volume orders

Click to see photos of every color



Please select a color

1. Tropical Tapestry-Black

add to cart



Usually leaves warehouse within 2 business days.  
When will it get to me?

**Customer Rating**  
This product has no customers.

Be the first person to review this product.

- Read product features
- Buy a Gift Certificate
- Tell a friend about this product

- Add to comparison chart
- View comparison chart
- See Entire Brand
- See Similar Items



**Product Features**

**Fabric:** Cotton and polyester with PVC trim

**Size:** 9" x 14" x 5"

**Linear inches:** 28"

**Weight:** 1 lb , 8 oz

**Warranty:** 30 days against manufacturer's defects

- + Magnetic snap closure to main compartment
- + One open fabric lined compartment
- + Organizer panel with a 7.5" zip pocket, and 8 credit card slots
- + Two interior drop pockets for smaller items, eyeglasses or cellphone
- + Comfortable rolled satchel handles
- + Handles measure 21" long with a 7" drop
- + PVC handles, trim and bottom
- + Sag Harbor polished silver hang tag

**You May Also Be Interested In**



**Sag Harbor**  
**Tropical Tapestry Valentine Tote**  
**Sale: \$29.99**



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**Tropical Tapestry East/West Tote**  
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**Sag Harbor**  
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## CIVIL COVER SHEET

JS 44 (Rev. 3/99)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Barrow Industries Inc.

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

I. Stephen Samuels  
Samuels & Hiebert LLC  
Two International Place, 23rd Floor  
Boston, MA 02110-4104 Phone: 617-426-9181

## DEFENDANTS

J.C. Penney Company, Inc.  
Koltov, Inc.

County of Residence of First Listed \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4  
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of F Detention Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus. <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Title 17, US Code, §§101 et seq - Copyright Infringement

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND:

☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 10, 2005

SIGNATURE OF ATTORNEY OR REPRESENTATIVE



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Barrow Industries Inc. v.  
J.C. Penney Company, Inc.

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730,  
740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.

\*Also complete AO 120 or AO 121  
for patent, trademark or copyright cases

☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,  
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,  
380, 385, 450, 891.

☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660,  
690, 810, 861-865, 870, 871, 875, 900.

☐ V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐

NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES ☐

NO ☒

IF SO, IS THE U.S.A OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐

NO ☐

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐

NO ☒

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES ☐

NO ☒

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION ☐

CENTRAL DIVISION ☐

WESTERN DIVISION ☐

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☒

CENTRAL DIVISION ☐

WESTERN DIVISION ☐

TYPE OR PRINT)

PLAINTIFFS NAME I. Stephen Samuels

Two International Place, 23rd Floor, Boston, MA 02110-4104

NO. 617-426-9181 Ext. 107